

Entered - 10-28-09 sb
CL 09L0837 GWENDOLYN BURNS

10- R -0453

CLAIM OF: **WALTER CALLOWAY
THROUGH HIS ATTORNEY,
MARVIN S. ARRINGTON, JR. ESQ.**
755 Houston Mill Road, Suite #4
Atlanta, Georgia 30329

For damages alleged to have been sustained from an arrest
on May 13, 2008 at 225 H.E. Holmes Drive, NW.

THIS ADVERSED REPORT IS APPROVED

BY: _____
JERRY L. DELSACH
DEPUTY CITY ATTORNEY

ADVERSE REPORT

PUBLIC SAFETY &
LEGAL ADMINISTRATION COMMITTEE

DATE 3/9/10

CHAR [Signature]

[Signature]

Jaduan

George M. Sheppard

MAR 15 2010

APPROVED BY
[Signature]
MAY 13 2008

MAY 13 2010
ADVERSED BY
[Signature]



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON
MUNICIPAL CLERK

March 19, 2010

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6030
FAX (404) 658-6273

Marvin S. Arrington, Jr. Esq.
755 Houston Mill Road, Suite #4
Atlanta, Georgia 30329

10-R-0453

RE: Walter Calloway

Dear Mr. Arrington

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on March 15, 2010. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400.**

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 09L0837

Date: February 9, 2010

Claimant /Victim WALTER CALLOWAY
BY: (Atty) (Ins. Co.) MARVIN S. ARRINGTON, JR., ESQ.
Address: 775 Houston Mill Road, Suite #4, Atlanta, Georgia 30329
Subrogation: Claim for Property damage \$ Bodily Injury \$ unspecified
Date of Notice: 10/23/09 Method: Written, Proper Improper X
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Month)
Date of Occurrence 5/13/08 Place: 225 H. E. Holmes Drive, NW
Department POLICE Bureau: Office:
Employee involved J.E. Snowden Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that he was falsely, improperly and unnecessarily arrested by Atlanta Police on the above referenced date. However, an investigation determined that the alleged actions of the officer were justified as the claimant became aggressive and combative. Secondly, the claim as presented fails to comply with the requirements of notice, pursuant to O.C.G.A. §36-33-5. Moreover, a municipal corporation shall not be liable for the torts of policemen or other officers engaged in the duties imposed on them by law, pursuant to O.C.G.A. §36-33-3.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police X Dept Report X Other X
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months X Other X Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent X City Negligent Joint Claim Abandoned

Respectfully submitted,

[Signature]
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X Account charged: General Fund Water & Sewer Aviation
Claims Manager: [Signature] Concur/date 02/22/10
Committee Action: Council Action

OCT 23 2009

MC

Rogers

ARRINGTON LAW FIRM

ARRINGTONLAWFIRM.COM

775 Houston Mill Rd., Suite #4,
Atlanta, Georgia 30329

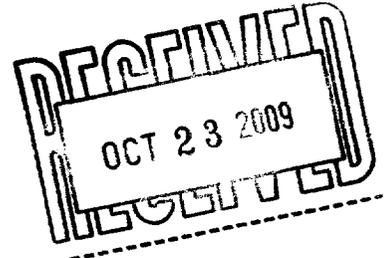
404.633.3396-office
404.633.4650-facsimile

October 20, 2009

VIA CERTIFIED MAIL: (7009 0080 0000 9685 3937)

Mayor Shirley Franklin
and City Council Members
City of Atlanta
55 Trinity Avenue, SW
Atlanta, GA 30303

ENTERED - 10-28-09 - SB
09L0837 - G. BURNS



BURNS
10/28/09
K

RE: *Ante Litem* Notice
Pursuant to O.C.G.A. Section 36-33-5

Dear Madam Mayor and City Council,

I represent Walter Calloway for purposes of any and all claims arising from his wrongful and unlawful arrest on May 13, 2008. Pursuant to O.C.G.A. Section 36-33-5, this letter constitutes formal notice of a tort claim against a municipality, which must be presented in writing.

On May 13, 2008, Mr. Calloway was falsely arrested and imprisoned by an officer of the Atlanta Police Department. The arrest and imprisonment of him by the officer was improper, unnecessary and unjustified under Georgia law. My client also contends that the arrest constituted the unreasonable use of search and seizure in violation of the Fourth Amendment of the United States Constitution. The City of Atlanta is liable for the conduct of these officers to the extent that it has waived sovereign immunity by the purchase of insurance or participation in a self insurance plan, and the City is also liable under federal civil rights law to the extent that officer's improper use of false arrest and imprisonment were caused by any custom, policy, or practice of Atlanta and its police department.

To the extent that the law requires than an *ante litem* notice specify an amount of damages, we hereby demand the aggregate sum of \$150,000.00, payable within thirty (30) days upon receipt of this notice, as payment in full of any and all claims. If we are forced to file suit we will certainly be seeking more than \$150,000.00.

If you contend that this notice fails to satisfy the requirements of O.C.G.A. Section 36-33-5 in any way, please give us immediate notice of any such claimed deficiency; otherwise, we will assume that you did not dispute the validity of this notice and that any lack of response on your part constitutes a denial of the claim rather than an objection in the manner in which it has been presented. Please govern yourself accordingly.

This wrongful/unlawful arrest stems from a personal matter between the officer and my client. The officer and my client were in disagreement regarding a \$20.00

ARRINGTON LAW FIRM

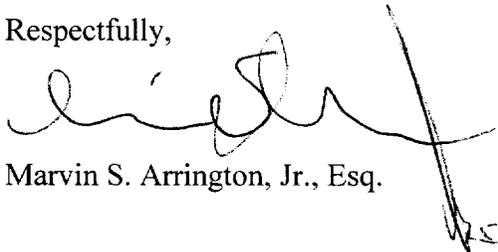
ARRINGTONLAWFIRM.COM

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alleged balance that the officer claimed was owed by my client for a job the officer was hired to do. The officer, after a verbal altercation with my client arrested him at his job, Frederick Douglas High School in front of his fellow instructors, parents and students. As a result of this wrongful and unlawful arrest my client had to bond out of jail, publically humiliated in front of his colleagues, parents and students and had to endure legal expenses in order to fight the frivolous charge against him resulting from this wrongful and unlawful arrest.

Respectfully,



Marvin S. Arrington, Jr., Esq.

10- R -0453

Cc: Walter Calloway

RCS# 124
3/15/10
2:18 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 2

Y Smith	Y Archibong	Y Moore	Y Bond
B Hall	Y Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	B Sheperd	NV Mitchell

CONSENT I